



General Assembly

January Session, 2001

Bill No. 1158

LCO No. 3195

Referred to Committee on Government Administration and Elections

Introduced by:

SEN. DELUCA, 32nd Dist.

REP. WARD, 86th Dist.

AN ACT CONCERNING THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 46a-52 of the general statutes is
2 repealed and the following is substituted in lieu thereof:

3 (b) [Except as provided in section 46a-57, the] The members of the
4 commission shall serve without pay, but their reasonable expenses,
5 including educational training expenses and expenses for necessary
6 stenographic and clerical help, shall be paid by the state upon
7 approval of the Commissioner of Administrative Services. Any
8 member who fails to attend three consecutive meetings or who fails to
9 attend fifty per cent of all meetings held during any calendar year shall
10 be deemed to have resigned from office.

11 Sec. 2. Section 46a-54 of the general statutes is repealed and the
12 following is substituted in lieu thereof:

13 The commission shall have the following powers and duties:

14 (1) To establish and maintain such offices as the commission may
15 deem necessary;

16 (2) To organize the commission into a division of affirmative action
17 monitoring and contract compliance, a division of discriminatory
18 practice complaints and such other divisions, bureaus or units as may
19 be necessary for the efficient conduct of business of the commission;

20 (3) To employ a commission counsel who shall not be subject to the
21 provisions of chapter 67;

22 (4) To appoint such investigators and other employees and agents as
23 it deems necessary, fix their compensation within the limitations
24 provided by law and prescribe their duties;

25 (5) To adopt, publish, amend and rescind regulations consistent
26 with and to effectuate the provisions of this chapter;

27 (6) To establish rules of practice to govern, expedite and effectuate
28 the procedures set forth in this chapter;

29 (7) To recommend policies and make recommendations to agencies
30 and officers of the state and local subdivisions of government to
31 effectuate the policies of this chapter;

32 (8) To receive, initiate as provided in section 46a-82, investigate and
33 mediate discriminatory practice complaints;

34 (9) By itself or with or by hearing officers, [or human rights
35 referees,] to hold hearings, subpoena witnesses and compel their
36 attendance, administer oaths, take the testimony of any person under
37 oath and require the production for examination of any books and
38 papers relating to any matter under investigation or in question;

39 (10) To make rules as to the procedure for the issuance of subpoenas
40 by individual commissioners [] and hearing officers; [and human

41 rights referees;]

42 (11) To require written answers to interrogatories under oath
43 relating to any complaint under investigation pursuant to this chapter
44 alleging any discriminatory practice as defined in subdivision (8) of
45 section 46a-51, and to adopt regulations in accordance with the
46 provisions of chapter 54 for the procedure for the issuance of
47 interrogatories and compliance with interrogatory requests;

48 (12) To utilize such voluntary and uncompensated services of
49 private individuals, agencies and organizations as may from time to
50 time be offered and needed and with the cooperation of such agencies,
51 (A) to study the problems of discrimination in all or specific fields of
52 human relationships, and (B) to foster through education and
53 community effort or otherwise good will among the groups and
54 elements of the population of the state;

55 (13) To require the posting by an employer, employment agency or
56 labor organization of such notices regarding statutory provisions as
57 the commission shall provide;

58 (14) To require the posting, by any respondent or other person
59 subject to the requirements of section 46a-64, 46a-64c, 46a-81d or 46a-
60 81e, of such notices of statutory provisions as it deems desirable;

61 (15) (A) To require an employer having three or more employees to
62 post in a prominent and accessible location information concerning the
63 illegality of sexual harassment and remedies available to victims of
64 sexual harassment; and (B) to require an employer having fifty or more
65 employees to provide two hours of training and education to all
66 supervisory employees within one year of October 1, 1992, and to all
67 new supervisory employees within six months of their assumption of a
68 supervisory position, provided any employer who has provided such
69 training and education to any such employees after October 1, 1991,
70 shall not be required to provide such training and education a second
71 time. Such training and education shall include information

72 concerning the federal and state statutory provisions concerning
73 sexual harassment and remedies available to victims of sexual
74 harassment. As used in this subdivision, "sexual harassment" shall
75 have the same meaning as set forth in subdivision (8) of subsection (a)
76 of section 46a-60, and "employer" shall include the General Assembly;

77 (16) To require each state agency that employs one or more
78 employees to (A) provide a minimum of three hours of diversity
79 training and education (i) to all supervisory and nonsupervisory
80 employees, not later than January 1, 2001, with priority for such
81 training to supervisory employees, and (ii) to all newly hired
82 supervisory and nonsupervisory employees, not later than six months
83 after their assumption of a position with a state agency, with priority
84 for such training to supervisory employees. Such training and
85 education shall include information concerning the federal and state
86 statutory provisions concerning discrimination and hate crimes
87 directed at protected classes and remedies available to victims of
88 discrimination and hate crimes, standards for working with and
89 serving persons from diverse populations and strategies for addressing
90 differences that may arise from diverse work environments; and (B)
91 submit an annual report to the Commission on Human Rights and
92 Opportunities concerning the status of the diversity training and
93 education required under subparagraph (A) of this subdivision. The
94 information in such annual reports shall be reviewed by the
95 commission for the purpose of submitting an annual summary report
96 to the General Assembly. Notwithstanding the provisions of this
97 section, if a state agency has provided such diversity training and
98 education to any of its employees prior to October 1, 1999, such state
99 agency shall not be required to provide such training and education a
100 second time to such employees. The requirements of this subdivision
101 shall be accomplished within available appropriations;

102 (17) To receive and investigate complaints concerning the failure of
103 a state agency to comply with the requirements of subdivision (16) of
104 this section; and

105 (18) To enter into contracts for and accept grants of private or
106 federal funds and to accept gifts, donations or bequests, including
107 donations of service by attorneys.

108 Sec. 3. Section 46a-68h of the general statutes is repealed and the
109 following is substituted in lieu thereof:

110 If the commission issues an order pursuant to subdivision (5) of
111 subsection (c) of section 46a-56, the contractor or subcontractor may
112 request a hearing within fifteen days of receipt of such order to allow
113 such contractor or subcontractor to show cause why the commission's
114 order should not be implemented. Upon receipt of a request for a
115 hearing, the commission shall appoint a hearing officer [or human
116 rights referee] pursuant to the procedures adopted by the commission.
117 Any hearing requested pursuant to this section shall be conducted in
118 accordance with the provisions of sections 4-177 to 4-182, inclusive.

119 Sec. 4. Section 46a-68i of the general statutes is repealed and the
120 following is substituted in lieu thereof:

121 The commission or any contractor or subcontractor aggrieved by a
122 decision of the hearing officer [or human rights referee] pursuant to
123 section 46a-68h shall have a right of appeal to the Superior Court as
124 provided for in section 4-183. Such appeal shall be privileged in order
125 of assignment of trial.

126 Sec. 5. Section 46a-84 of the general statutes is repealed and the
127 following is substituted in lieu thereof:

128 (a) If the investigator fails to eliminate a discriminatory practice
129 complained of pursuant to section 46a-82 within fifty days of a finding
130 of reasonable cause, he shall, within ten days, certify the complaint and
131 the results of the investigation to the executive director of the
132 commission and to the Attorney General.

133 (b) Upon certification of the complaint, the executive director of the
134 commission or his designee shall appoint a hearing officer [] or

135 hearing adjudicator [or human rights referee] to act as a presiding
136 officer to hear the complaint or to conduct settlement negotiations and
137 shall cause to be issued and served in the name of the commission a
138 written notice, together with a copy of the complaint, as the same may
139 have been amended, requiring the respondent to answer the charges of
140 the complaint at a hearing before the presiding officer or hearing
141 adjudicator at a time and place to be specified in the notice, provided
142 such hearing shall be commenced by convening a hearing conference
143 not later than forty-five days after the certification of the complaint.
144 The hearing shall be a de novo hearing on the merits of the complaint
145 and not an appeal of the commission's processing of the complaint
146 prior to its certification. The hearing shall proceed with reasonable
147 dispatch and be concluded in accordance with the provisions of section
148 4-180.

149 (c) The place of any hearing may be the office of the commission or
150 another place designated by it.

151 (d) The case in support of the complaint shall be presented at the
152 hearing by the Attorney General, who shall be counsel for the
153 commission, or by the commission counsel as provided in section 46a-
154 55, as the case may be. If the Attorney General or the commission
155 counsel determines that a material mistake of law or fact has been
156 made in the finding of reasonable cause, he may withdraw the
157 certification of the complaint and remand the file to the investigator for
158 further action. The complainant may be represented by an attorney of
159 his own choice. If the Attorney General or the commission counsel, as
160 the case may be, determines that the interests of the state will not be
161 adversely affected, he may allow the attorney for the complainant to
162 present all or part of the case in support of the complaint. No
163 commissioner may participate in the deliberations of the presiding
164 officer in the case.

165 (e) A hearing officer, hearing adjudicator [, human rights referee] or
166 attorney who volunteers service pursuant to subdivision (16) of section

167 46a-54 may supervise settlement endeavors, or, in employment
168 discrimination cases only, the complainant and respondent, with the
169 permission of the commission, may engage in alternate dispute
170 resolution endeavors for not more than three months. The cost of such
171 alternate dispute resolution endeavors shall be borne by the
172 complainant or the respondent or both and not by the commission.
173 Any endeavors or negotiations for conciliation, settlement or alternate
174 dispute resolution shall not be received in evidence.

175 (f) The respondent may file a written answer to the complaint under
176 oath and appear at the hearing in person or otherwise, with or without
177 counsel, and submit testimony and be fully heard. If the respondent
178 fails to file a written answer prior to the hearing within the time limits
179 established by regulation adopted by the commission in accordance
180 with chapter 54 or fails to appear at the hearing after notice in
181 accordance with section 4-177, the presiding officer or hearing
182 adjudicator may enter an order of default and order such relief as is
183 necessary to eliminate the discriminatory practice and make the
184 complainant whole. The commission or the complainant may petition
185 the Superior Court for enforcement of any such order for relief
186 pursuant to the provisions of section 46a-95.

187 (g) The presiding officer or hearing adjudicator conducting any
188 hearing shall permit reasonable amendment to any complaint or
189 answer and the testimony taken at the hearing shall be under oath and
190 be transcribed at the request of any party.

191 (h) The presiding officer shall have the same subpoena powers as
192 are granted to commissioners by subdivision (9) of section 46a-54, as
193 amended by this act.

194 (i) The presiding officer shall have the power to determine a
195 reasonable fee to be paid to an expert witness, including, but not
196 limited to, any practitioner of the healing arts, as defined in section 20-
197 1, dentist, registered nurse or licensed practical nurse, as defined in
198 section 20-87a, and real estate appraiser when any such expert witness

199 is summoned by the commission to give expert testimony, in person or
200 by deposition, in any contested case proceeding, pursuant to this
201 section. Said fee shall be paid to the expert witness in lieu of all other
202 witness fees.

203 Sec. 6. Section 46a-57 of the general statutes is repealed.

204 Sec. 7. This act shall take effect July 1, 2001.

Statement of Purpose:

To implement the Governor's budget recommendations.